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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,480	12/28/2000	Mitchell R. Swartz		7970
7590	09/27/2004		EXAMINER	
Mitchell R. Swartz, ScD, EE, MD 16 Pembroke Road Weston, MA 02493			ART UNIT	PAPER NUMBER

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliance With 37 CFR 1.192(c)	Application No. 09/750,480	Applicant(s) SWARTZ, MITCHELL R.
	Examiner Rick Palabica	Art Unit 3641

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 07 July 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three TIME PERIODS: (1) ONE MONTH or THIRTY DAYS from the mailing date of this Notification, whichever is longer; (2) TWO MONTHS from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.

1. The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. A single ground of rejection has been applied to two or more claims in this application, and
 - (a) the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. Other (including any explanation in support of the above items):

As to item 5 above, the statement of issues does not provide a basis for each issue. Note the example given in MPEP 1206 on how to properly present an issue, i.e., "Whether claims 1 and 2 are unpatentable under 35 U.S.C. 103 over Smith in view of Jones." Also, this section of the brief improperly includes an issue that does not correspond to a rejection made by the Examiner and therefore irrelevant, i.e., 1.192(c)(6)(v).

As to item 6 above, the Appellant states that the appealed claims do not stand or fall together. MPEP 1206 states that the arguments should specify the specific limitations in the rejected claims which cause the rejection to be in error. Contrary to this provision, with the exception of some arguments for dependent claims 2, 5, 6 in regard to their rejection under U.S.C. 112, second paragraph, no separate, claim- specific arguments are presented for the other dependent claims under this statute. Also, no separate, claim- specific arguments are presented for all dependent claims for rejections made under the other statutes.


MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER